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December 6, 2006

The Honorable Michael Toner  
 Chairman  
 Federal Election Commission  
 999 E Street, N.W.  
 Washington, D.C. 20463

RECEIVED  
 FEDERAL ELECTION  
 COMMISSION  
 OFFICE OF GENERAL  
 COUNSEL

2006 DEC -7 P 3:56

Re: **MUR 5843**  
**Give Missourians a Raise, Inc. and Sherwin Carroll, as Treasurer**

Dear Chairman Toner:

On behalf of the above-referenced Respondents, I write to respond to the Complaint in MUR 5843.<sup>1</sup> The Complaint presents no facts which, if proven true, would signify a violation by Respondents of the Federal Election Campaign Act of 1971, as amended ("the Act"). Moreover, the Complaint is undercut by a lack of credibility and substantiation. It is malicious speculation; it should be regarded as such and immediately dismissed.

Give Missourians a Raise, Inc., is a ballot initiative committee under Missouri State law. It was formed to support adoption of Proposition B on Missouri's November 7, 2006 general election ballot, which was adopted by the voters and will increase the Missouri state minimum wage to \$6.50 an hour. It is not a political committee under the Act and did not make expenditures for the purpose of influencing federal elections. Its sole purpose was to motivate support for the initiative. The initiative enjoyed broad-based support in the state; the Association of Community Organizations for Reform Now

<sup>1</sup> While Sherwin Carroll is the treasurer of Give Missourians a Raise, Inc., under Missouri state law, he is not a "treasurer" as that term is defined and used under the Act, because Give Missourians a Raise, Inc., is not a political committee. Nor does the complaint allege any conduct by Mr. Carroll. Thus, Mr. Carroll is not properly named as a respondent and should be dismissed from the matter, regardless of how the Commission might otherwise view the complaint.

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(ACORN) was one of several organizations that urged adoption of the initiative and that supported the Committee through various means.<sup>2</sup>

Propounded by the Missouri Republican State Committee, the Complaint revolves entirely around a web video produced by a blog called PubDef.net and distributed through YouTube.com. (The only other documentation provided by the Complaint is an excerpt from a *Roll Call* article that describes the video.) Assembled under unknown circumstances, the video purports to present allegations by a woman named Josephine Perkins. Ms. Perkins was apparently an ACORN employee who was dismissed from that organization under acrimonious circumstances; she was neither paid by Give Missourians a Raise nor authorized by it to act on its behalf. In the video, Ms. Perkins seems to indicate that ACORN directed her and others to urge people to vote for the Democratic U.S. Senate candidate, while canvassing in support of Proposition B. However, these allegations are not presented by Ms. Perkins under oath to the Commission. Rather, they — or, more precisely, the blog's edited version of those allegations — were offered by the Complaint as hearsay.

The Complaint alleges no conduct by Give Missourians a Raise, Inc., that would violate the Act. It identifies no payment by Respondents that would have been for federal express advocacy. It identifies no one paid by Respondents who themselves would have engaged in federal express advocacy. It erroneously describes Give Missourians a Raise, Inc., as an "affiliate" or alter ego of ACORN, when in fact ACORN was one of many groups active in support of the initiative. All of this is a far cry from presenting facts describing a violation of the Act by Respondents, which a valid complaint must do. See 11 C.F.R. § 111.4(d)(3)(2005).

Moreover, the Complaint does not credibly allege that *anyone* violated the Act — whether Respondents, ACORN, or anyone else. The law requires complaints to be sworn under oath, in order to ensure some minimal evidentiary value. See 11 C.F.R. § 111.4(b)(2). This complaint has no such value. Ms. Perkins' allegations are not made under oath; they were published on the Internet and repeated as hearsay. Moreover, the public record indicates that she was dismissed for a theft reported to the police — not for whistle blowing. It also shows that she was hired days later by a Republican elections director who has been described in the press as "an outspoken ACORN critic." See Jeremy Kohler, *Allegations of fraud cloud ACORN voter drive again*, St. Louis Post-Dispatch,

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<sup>2</sup> ACORN was one of Give Missourians a Raise, Inc.'s five board members. Others included the AFL-CIO, SEIU, Missouri Pro-Vote and AFSCME.

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Oct. 29, 2006 (enclosed). Thus, while the Complaint presents no genuine reason to believe that Respondents violated the Act, there is ample reason to believe that Ms. Perkins colluded with others to contrive its allegations, delivering retribution on her former employer while serving the partisan aims of her newfound friends.

It should take more than this to initiate a Commission investigation. One should not be able to trigger an investigation of protected First Amendment activities simply by posting biased hearsay on a blog, and then by having others repeat it in the meaningless presence of a notary public. Filed by a partisan organization, relying wholly on a blog video, and presenting the second-hand charges of a disgruntled employee allied with the same party, this Complaint is "as thin as homeopathic soup that was made by boiling the shadow of a pigeon that had starved to death. . ." Abraham Lincoln, Speeches and Writings 1832-1858, at 769 (Library of America 1989) (from Sixth Lincoln-Douglas Debate).

The Commission should act no further on this Complaint, except to dismiss it. As to Respondents, it fails to meet the most basic requirements of a valid complaint. It fails credibly to present a violation by anyone. The Commission should close the matter immediately.

Very truly yours,



Brian G. Svoboda

BGS:dcw

Enclosure

cc: Vice Chairman Lenhard  
Commissioner Mason  
Commissioner von Spakofsky  
Commissioner Walther  
Commissioner Weintraub  
Lawrence H. Norton, Esq.

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## Allegations of fraud cloud ACORN voter drive again

By *Jeremy Kohler*

ST. LOUIS POST-DISPATCH

Sunday, Oct. 29 2006

ST. LOUIS — The grass-roots political group ACORN became a player in U.S. politics by combing streets, signing new voters and giving a voice to the poor.

Thousands of people in the St. Louis area know ACORN workers as the visitors at the door reminding them to vote. The group is part of a coalition backing an increase in Missouri's minimum wage on the Nov. 7 ballot.

But the Association of Community Organizations for Reform Now is becoming better known for accusations of voter fraud, a reputation it says is unfair.

The nonprofit group defends itself from similar allegations nearly every election. It's the same story this fall, with thousands of voter registrations turned in by ACORN coming under scrutiny in St. Louis, Denver, Philadelphia and Columbus, Ohio.

Meanwhile, a longtime ACORN worker in St. Louis who was fired this month is accusing the group of directing its paid workers to go door-to-door to campaign for Senate candidate Claire McCaskill, a Democrat.

The group denies the claim, saying that while no law bars them from supporting a candidate, it has not endorsed McCaskill in her challenge to Sen. Jim Talent, a Republican.

ACORN fired Josephine Perkins this month after a co-worker accused her of swiping a purse at the organization's office, 4304 Manchester Avenue.

Perkins, a longtime city activist who worked for ACORN for 11 years, denies the theft and says her bosses fabricated the charge because she spoke out about what she thought was improper electioneering for McCaskill. The theft of the purse was reported to St. Louis police; no one has been charged.

In a twist, Perkins was hired days later as a temporary worker by the city's Republican elections director, Scott Lelendecker, an outspoken ACORN critic.

"She seemed very sincere," Lelendecker said. "She seemed like someone who was very concerned about the process ... they're stating that there was a purse stolen, but I don't believe that was true."

Selisa Washington, from ACORN's St. Louis office, said in an e-mail Friday that the group was "appalled but not surprised" by Perkins' hiring and said the group did not appreciate Lelendecker's "dirty political tricks."

Cards are subpoenaed

What proportion of voter registrations turned in by ACORN were really fraudulent or incomplete was unclear Friday and may remain so until after the election. The U.S. attorney's office has subpoenaed thousands of registration cards flagged by Lelendecker's office as suspicious.

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Last week, Leidecker sent letters to 5,000 voters registered by ACORN, asking them to verify their registrations on the phone and with signatures returned by mail.

Kevin Whalen, a national spokesman for ACORN, criticized the action as "wrong and illegal." Leidecker "can't make up extra steps just because he doesn't like us," Whalen said.

Leidecker said indications were that 10 percent to 15 percent of the 5,000 registrations set aside were legitimate.

"I know that we got several individuals who said they did not fill out these cards," he said.

Many of the cards appeared to be signed by the same person, Leidecker said. The forms included three from dead people and one from a 16-year-old.

ACORN said it had fired three workers behind bogus registrations but says, locally and nationally, it has unfairly become a target for political grandstanding.

Whalen points to Florida, where the group was accused of voter fraud in 2004. A year later, a federal judge ruled that the allegations were baseless and defamatory.

Election officials in St. Louis County found hundreds of bogus registrations. Among them were cards turned in for names that appear to have been copied from the phone book.

Take Robert S. Rothschild Jr. of Richmond Heights. The white pages list him and his wife as Sandy and Susan Rothschild.

The county election board sent a letter last week notifying them of their new registration as Sandy and Susan Rothschild, each female, each with the same birth date.

The card was turned in by ACORN. But who would do that, Rothschild wonders. And why?

"Is someone really going to go to our precinct and try to vote?" Rothschild asked.

"I doubt it very much. Or is this just some sloppy way (for an ACORN worker) to get paid for \$8 an hour to make it appear that they're really doing the work they're hired to do?"

Leidecker said he wonders the same. "It's one of two things," Leidecker said. "ACORN needs to look at themselves internally, and their management practices. Something is not clicking. Either that or this group is committing fraud."

Perkins says that she knew that at least one ACORN worker was fabricating cards from the phone book and from newspaper obituaries and that she reported it weeks ago.

ACORN's national and local staff has repeatedly denied any wrongdoing, and has pointed to its successes. In Missouri, the group claims to have helped 90,000 people register to vote and believes that half or more of them will actually cast ballots.

With "ACORN lady"

In St. Louis, the group allowed a reporter and photographer to follow one of its workers on her rounds.

Ruth Meyer, 53, wore an oversized red T-shirt advocating an initiative to raise Missouri's minimum wage. She walked several blocks of north St. Louis on

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Thursday with a partner from another group in the minimum-wage coalition.

Under gray skies, she briskly rounded a corner onto the 5100 block of Labadie Avenue.

Outside an apartment building, three men and a woman drinking beers scattered.

"Anyone know Charmaine Jones?" Meyer asked.

Meyer found Jones, 47, in the foyer of the building and urged her to vote for the wage increase.

Similar scenes were repeated that day. People hailed Meyer as "ACORN lady."

Said Jones, "They're nice to let people around here know what's going on."

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